

1978 WL 207608 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 24, 1978

*1 Mr. Francis K. Sullivan
Executive Secretary
Charleston County Legislative Delegation
Post Office Box 487
Charleston, South Carolina 29402

Dear Mr. Sullivan:

This is in response to your opinion request of April 20, 1978, concerning the validity of certain contracts entered into by the St. John's Fire District Commission and the authority of the Commission as to the negotiation of said contracts. As you know, the third facet of your request, relating to the distribution of tax revenues generated by the involved property, has been answered separately by this office. In answering the remaining questions, it is assumed that Seabrook and Kiawah Islands are within the geographical limits of the St. John's Fire District, as defined by Section 2 of Act No. 369 of the 1959 General Assembly.

“The general rule is that municipal corporations possess and can exercise only such powers as are granted in express words, or those necessarily or fairly implied in or incident to the powers expressly conferred, or those essential to the accomplishment of the declared objects and purposes of the corporation.” 56 Am.Jur.2d 43, 246, [McKenzie v. Florence](#), 234 S.C. 428, 108 S.E.2d 825 (1959). Additionally, such powers are to be strictly construed, with any ambiguity resolved against the corporation. [Luther v. Wheeler](#), 73 S.C. 83, 52 S.E. 874 (1905). This principle, however, is not relevant to the situation at hand, as the grant of power is clear and unambiguous: “[s]aid Commission shall have the power ... to purchase, lease, hold and sell such real estate as they may deem necessary ... [and] to make any and all contracts that they may deem necessary to carry out the provisions of this act” (Section 5 of Act No. 369 of the 1959 General Assembly) This is an express grant of the powers involved in negotiating and entering into the contracts and leases submitted to this office for review. Furthermore, the Act states that the commission “shall have the power to purchase, establish, enlarge, maintain, conduct and operate such fire system in said District as they may deem necessary ... and in general to do all things necessary for the purpose of creating, maintaining and operating a fire system, all or any of them in said District” “Where power over a particular subject matter has been delegated to a municipal corporation by the legislature, without any express limitations, the extent to which that power shall be exercised rests in the discretion of the municipal authorities, and as long as it is exercised in good faith and for a municipal purpose the courts have no ground upon which to interfere.” 56 Am.Jur.2d 43. 286.

In summary, Act No. 369 of the 1959 General Assembly expressly confers on the St. John's Fire District Commission the authority to negotiate and enter into contracts and leases related to the purpose of said Commission, to wit, the creation and maintenance of a fire system. The contracts in question are undoubtedly within that purpose. If we can be of any further assistance, please let us know.

With kind regards,

*2 Karen LeCraft Henderson
Senior Assistant Attorney General

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